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# Status of police chief's contract still unresolved

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MacDonald said Monday he believes a non-renewal does not equal a removal, but declined further comment.

"I am going to be guided by town counsel on the rest of this process," he said.

Town Counsel Robert Troy said he is still looking at the complex legal issues surrounding last Monday's meeting.

"If it's just a matter of a contract, and it's decided that a non-renewal is not a removal, then the vote means nothing," he said.

Because the Board of Selectmen cannot force MacDonald into renewing the contract, DeLuca's contract will end on Nov. 20 regardless of Monday's vote, Troy said.

"Now what we're looking at, is there any other authority other than the contract?" he added.

DeLuca's attorney, Gerry McAuliffe of Quincy, declined to elaborate on what he thought would happen in November, but did not disagree with Troy's characterization of the contract.

## CONTRACT TIMELINE



**Police Chief Mark DeLuca**

**May, 1999:** Boston Police Sergeant Mark DeLuca is chosen to be Duxbury's police chief.

**Nov. 20, 2006:** Chief DeLuca's current contract begins at an base annual salary of \$93,607.

**June 4, 2009:** Town Manager Richard MacDonald sends a letter to DeLuca informing him that his contract will not be renewed when it expires later this fall. MacDonald cites "current management practices" as the reason for the non-renewal.

**June 15:** At a regular meeting of the Board of Selectmen, the board votes 2-1 to "not ratify" MacDonald's letter. Most discussion takes place in open session.

**Nov. 20:** Chief DeLuca's contract set to expire.

"It's a contract, by its terms it has a beginning, middle and an end," McAuliffe said.

Selectmen were sharply divided on the issue of "removal" versus "non-renewal" during their meeting last week and little has changed since.

"The letter was not a termination," Sullivan said this week. "If there were an ever-green clause, why would you have a contract? A contract has a beginning, middle and an end."

Selectman Jon Witten released a written statement Monday in which he reiterated his belief that the non-renewal of the contract was a removal.

"This is particularly so where, as with the police

chief, the individual has been employed for a long-term period, including employment without a contract," he wrote. (See full letter on page 20.)

Witten said in his letter that his vote was not intended to weaken the town manager act.

"Some decisions of the Town Manager are subject to review by the elected Board of Selectmen ... my vote last week

assured, at least for now, the 'check and balance' promised by Duxbury Town Meeting at the Massachusetts legislature between town employees and the Duxbury Town Manager."

Selectman Chris Donato did not immediately return further request for comment. He said during the meeting he believed MacDonald's letter was tantamount to a removal.

"In reality, it's a termination," said Donato. "At the end of the contract, he's not working for us."

A number of former selectmen took issue with that decision, including former three-term selectman Margaret Kearney.

"The vote of 2-1 was not for the town, it was for a single employee," Kearney said this week. She called the vote by Witten and Donato a "disappointment."

For her part Sullivan said that she feels the decision weakened the power of the town manager and was not what Town Meeting had in mind when they created a strong town manager act.

"I think the actions that were taken Monday night compromised that document," she said. "These appointments are not political ... this is going to set a precedent on how selectmen interact with town managers."

Despite the disagreement among town officials, Troy said that he knows all parties involved want an answer to the question: what happens next. He said that he had some preliminary findings but could not discuss them.

"I'm not looking for any particular result," he said. "I want to be fair, and I want to be correct ... I believe, based on my record, that it will be correct."

Troy said he did not have any specific timetable as to when he would have further findings. McAuliffe said there were no plans for he and his client to meet with representatives from the town, although he did not rule out that possibility.

The Board of Selectmen is next scheduled to meet on Monday, June 29. At press-time no police related matters were on the agenda.